

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

TURHAN F. JESSAMY,

Plaintiff,

v.

CITY OF MOUNT VERNON, *et al.*,

Defendants.

No. 18-CV-11826 (KMK)

ORDER ADOPTING  
REPORT & RECOMMENDATION

KENNETH M. KARAS, United States District Judge:

Pro se Plaintiff Turhan F. Jessamy (“Plaintiff”) brings this Action, pursuant to 42 U.S.C. § 1983, alleging claims of excessive force, malicious prosecution, and false imprisonment against Defendants. (*See generally* Compl. (Dkt. No. 2).) On May 21, 2019, the Court referred the matter to the Honorable Magistrate Judge Paul E. Davison (“Judge Davison”) for general pre-trial supervision. (Dkt. No. 27.) On the same day, Judge Davison granted Defendants’ unopposed motion to consolidate the case for the purposes of discovery with a different matter arising from the same set of facts that was pending before the Honorable Magistrate Judge Lisa M. Smith (“Judge Smith”). (Dkt. No. 29.) After Plaintiff failed to appear at two status conferences over the span of two months and failed to inform the Court of his updated contact information, Judge Smith granted Defendants leave to file a Motion to Dismiss for Failure to Prosecute (the “Motion”) on November 20, 2019. (*See* Dkt. (minute entry for Nov. 20, 2019); Report & Recommendation (“R&R”) 1–4 (Dkt. No. 44).) On December 20, 2019, after Plaintiff failed to appear at another status conference, (*id.* at 4), Defendants filed the instant Motion. (Defs.’ Not. of Mot.; Aff’n of Steven J. Bushnell, Esq. in Supp. of Mot. (“Bushnell Aff’n”); Defs.’ Mem. of Law in Supp. of Mot. (“Defs.’ Mem.”) (Dkt. Nos. 38–40).)

On January 27, 2020, Judge Smith entered the Report & Recommendation (the “R&R”) recommending that this Court grant Defendants’ Motion and dismiss Plaintiff’s case with prejudice. (R&R 9.) In the R&R, Judge Smith provided notice that objections to the R&R were due within 17 days, and that failure to object would preclude later appellate review of any order of judgment that would be entered. (*Id.* at 10.) The R&R was mailed to Plaintiff at both his New York State address listed on the docket and a North Carolina address that he provided to counsel for Defendants at his deposition on September 9, 2019. (*Id.* at 2 & n.2, 10–11; *see* Dkt. (entry for Jan. 27, 2020).)

Because no objections have been filed, the Court “may adopt the report if there is no clear error on the face of the record.” *Edwards v. Horn*, No. 10-CV-6194, 2012 WL 1592196, at \*1 (S.D.N.Y. May 4, 2012) (citations omitted); *see also Osborn v. Montgomery*, No. 15-CV-9730, 2018 WL 2059842, at \*1 (S.D.N.Y. May 1, 2018) (same), *appeal dismissed*, 2019 WL 2369924 (2d Cir. Jan. 16, 2019). Having reviewed the R&R for clear error and finding none, the Court adopts the R&R in its entirety.<sup>1</sup>

Accordingly, it is hereby

ORDERED that the Report & Recommendation, dated January 27, 2020, is ADOPTED in its entirety.

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<sup>1</sup> Because Plaintiff has failed to attend three court-ordered conferences, (R&R 4), and failed to advance this litigation by, for example, providing no response to document demands and interrogatories served by Defendants on July 19, 2019 and failing to provide Defendants and the Court with updated and accurate contact information, despite being on notice and aware of the fact that he must do so, (*id.* at 4–5, 7–8), the Court finds that dismissal with prejudice is warranted. *See Edwards v. Horn*, No. 10-CV-6194, 2012 WL 129672, at \*2 n.4 (S.D.N.Y. Apr. 13, 2012) (recommending dismissal of a pro se plaintiff’s case with prejudice after the plaintiff failed to attend two pre-trial conferences and failed to advance the litigation), *adopted by* 2012 WL 1592196 (S.D.N.Y. May 4, 2012); *see also Culton v. N.Y. State Dep’t of Corr. Servs.*, 299 F. App’x 96, 97 (2d Cir. 2008) (affirming dismissal with prejudice where the pro se plaintiff failed to attend pre-trial conferences and comply with discovery requirements).

ORDERED that Defendants' Motion To Dismiss for Failure to Prosecute is granted.

ORDERED that Plaintiff's claims against Defendants are dismissed with prejudice.

ORDERED that the Clerk of the Court is respectfully directed to terminate the pending Motion, (Dkt. No. 38), and close this case.

ORDERED that the Clerk of the Court is also respectfully directed to mail a copy of this Order to Plaintiff at the address on the docket, as well as the following address provided by Defendants to the Court:

Turhan F. Jessamy  
2070 Boone Station Drive  
Burlington, NC 27215

SO ORDERED.

DATED: April 1, 2020  
White Plains, New York



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KENNETH M. KARAS  
UNITED STATES DISTRICT JUDGE